

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Request for Review by	)	
	)	
Jaffrey-Rindge Cooperative School District	)	File No. SLD-257632
Jaffrey, New Hampshire	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Associations, Inc.	)	
	)	

**ORDER**

**Adopted: May 22, 2002**

**Released: May 23, 2002**

By the Telecommunications Access Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Jaffrey-Rindge Cooperative School District (Jaffrey-Rindge), Jaffrey, New Hampshire.<sup>1</sup> Jaffrey-Rindge requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>2</sup> For the reasons set forth below, we grant the request and remand this application to SLD for further processing consistent with this Order.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant

<sup>1</sup> Letter from Paul LaFreniere, Jaffrey-Rindge Cooperative School District, to Federal Communications Commission, filed September 4, 2001 (Request for Review). SLD treated a request for review from Jaffrey-Rindge as a request for waiver of the filing deadline. See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Paul LaFreniere, Jaffrey-Rindge Cooperative School District, dated August 3, 2001 (Administrator's Decision on Waiver Request). SLD directs entities that request such waivers to appeal directly to the Commission, because it lacks authority to waive the Commission's rules even in cases supported by a showing of good cause. See 47 C.F.R. § 1.3 (stating the Commission can waive its rules). However, because Jaffrey-Rindge does not ask for a waiver of the rules but, instead, for review of SLD's determination, we address the merits of Jaffrey-Rindge's appeal.

<sup>2</sup> See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

<sup>3</sup> 47 C.F.R. §§ 54.501-54.503.

submit to SLD a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.<sup>4</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>5</sup> The Commission's rules require that the applicant file a completed FCC Form 471 by the filing window deadline to be considered pursuant to the funding priorities for in-window applicants.<sup>6</sup> The last day of the filing window for Funding Year 4 was January 18, 2001.<sup>7</sup>

3. Jaffrey-Rindge claims that it filed within the Funding Year 4 window, but that SLD applied the wrong standard and determined it filed outside the window.<sup>8</sup> Jaffrey-Rindge electronically submitted its FCC Form 471 on January 18, 2001, but it is unclear whether its signed Block 6 certification page and Item 21 attachments were postmarked by that date.<sup>9</sup> SLD notified Jaffrey-Rindge by postcard dated July 11, 2001 that its material had been "received" outside the deadline.<sup>10</sup> However, as Jaffrey-Rindge correctly points out, the standard for determining whether an application was filed in the Funding Year 4 was whether all parts of the application were *postmarked* by that date.<sup>11</sup> Jaffrey-Rindge responded by writing to SLD to explain that it postmarked all its material on January 18, 2001, and that its FCC Form 471 application should be considered filed as of the postmark date.<sup>12</sup>

4. In its Request for Review, Jaffrey-Rindge states that its application was sent on January 18, 2001, but does not include any evidence to support this statement.<sup>13</sup> Given that Jaffrey-Rindge was writing to object to the application of the incorrect standard, we do not believe that SLD properly considered the applicant's appeal on the merits. We are unable to discern the postmark date based upon the copy of the envelope in the record.<sup>14</sup> Therefore, we remand this case to SLD in order to give the applicant an opportunity to provide clear evidence that the material was sent by January 18, 2001. If the applicant can submit proof, then the application should be considered within the filing window. If the applicant cannot submit such

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<sup>4</sup> 47 C.F.R. § 54.504(b).

<sup>5</sup> 47 C.F.R. § 54.504(c).

<sup>6</sup> 47 C.F.R. §§ 54.504(c), 54.507(g).

<sup>7</sup> SLD web site, FCC Form 471 Window Opens for Year 4 Applicants; New Filing Requirements Firmly Established (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>> (SLD Filing Window Notice).

<sup>8</sup> Request for Review.

<sup>9</sup> FCC Form 471, Jaffrey-Rindge Cooperative School District, filed January 2001 (Jaffrey-Rindge Form 471).

<sup>10</sup> Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Paul LaFreniere, Jaffrey-Rindge Cooperative School District, dated July 11, 2001.

<sup>11</sup> SLD Filing Window Notice.

<sup>12</sup> Letter from Paul LaFreniere, Jaffrey-Rindge Cooperative School District, to Schools and Libraries Division, Universal Service Administrative Company, filed July 25, 2001 (SLD Appeal Letter).

<sup>13</sup> Request for Review.

<sup>14</sup> Jaffrey-Rindge Form 471 (envelope containing attachments).

proof, SLD should treat this application in accordance with its standard procedures for illegible postmarks.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Jaffrey-Rindge Cooperative School District, Jaffrey, New Hampshire, on September 4, 2001, IS REMANDED to SLD for further processing consistent with this Order.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
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Wireline Competition Bureau